

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, OCTOBER 10, 2018

I. CALL TO ORDER

Mayor Rotwein called the meeting to order at 6:00 pm. Council members in attendance: West, Ladwig, Rotwein, Miller, Baker. City Staff in attendance: City Manager Dan Berman, City Clerk Gabriel Adams, City Engineer Rebecca Crow.

II. PLEDGE OF ALLEGIANCE

III. CLOSED SESSION

1. Real estate negotiations between the City of Trinidad and Verizon Wireless regarding the Trinidad Head cell site. Pursuant to California Government Code section 54956.8
2. Real estate negotiations between the City of Trinidad and Charles Garth regarding 1 North Westhaven Drive. Pursuant to California Government Code section 54956.8
3. Public Employee Performance Evaluation for City Manager Pursuant to Government Code Section 54957

IV. CLOSED SESSION REPORT

- 1) Continued research into feasibility of acquiring property at 1 North Westhaven. Hope to have numbers to share with the public at the December meeting.
- 2) Ongoing lease negotiation with Verizon.

V. APPROVAL OF AGENDA

Mayor Rotwein read a statement promoting civility and respectful meeting discourse.
Motion (West/Miller) to approve the agenda as submitted. Passed unanimously.

VI. APPROVAL OF MINUTES – 09-12-18 cc,

Motion (Miller/Baker) to approve the minutes as submitted. Passed unanimously.

VII. COUNCIL MEMBER REPORTS, COMMITTEE ASSIGNMENTS

West: No HCOAG meeting this month. Met with a parent group concerned with making the streets of Trinidad safer on Halloween night.

Baker: Nothing to report.

Miller: RCEA meeting discussed financial status regarding CCA, etc.

Ladwig: HTA discussed the installation of a solar array that would charge an electric transit bus.

Rotwein: Trails committee update – marking and maintenance. Gov't to Gov't quarterly meetings with Yurok and Trinidad Rancheria, discussing the cultural element of the General Plan. Earthquake drill scheduled for 10/20 at 10:18am. Reported on her visit to Washington D.C. for a Women Mayors of America gathering.

VIII. STAFF REPORTS

City Manager Berman's written staff report was included in the packet. Various highlights included 1) Construction on Hector & East Street is complete. Curb along rain garden will be painted red, and shrubs will be planted in the garden area. 2) Hidden Creek RV Park is in the final stages of a complete septic system replacement that is being supplemented by the Clean Beaches Initiative grant funds. 3) Special meeting will be held on Monday regarding the Rancheria Hotel project proposal. 4) Private property owner on Wagner Street had a private gardening service cut vegetation on city property along the trail. Tsurai Management Team has been notified. 5) A risk assessment of the City was recently performed by PARSAC. Recommendations will follow in a report. Tree and trail maintenance was the focus.

IX. ITEMS FROM THE FLOOR

(Three (3) minute limit per Speaker unless Council approves request for extended time.)

Jim Cuthbertson – Trinidad

Long-time resident Bill Dimmick passed away and there will be a gathering at the Town Hall next week. A vehicle went off the road in front of my house. I was the water commissioner in the late 1990's.

Ken Sawatsky – Eureka Area

Regarding the County's proposed ballot Measure O, taxes should have a sunset. The sunset provides oversight. The City should reach out to the County to request funds from the large pot of money they already receive from the Cannabis taxes.

Alan Grau – Trinidad

The City should video record meetings. The minutes are not accurate and not listed on the website. The STR Committee appointment discussion should be postponed to a future meeting. The Mayor should not have participated in the April meeting that formed the committee due to conflict of interest.

Pat Morales – Trinidad

Please report back to the Council regarding topics discussed at Tribal Government-to-Government meetings.

Ted Pease – Trinidad

Introduced HARP and explained their recent meeting regarding the Trinidad Rancheria's Hotel Project proposal. We were shot down by the BIA on our request to extend the comment period. HARP encourages the public to attend the City meeting next Monday.

X. CONSENT AGENDA

1. Staff Activity Report September 2018
2. Financial Statements August 2018
3. Law Enforcement Report September 2018
4. Accept City Engineer RFQ Results and Authorize City Manager to Negotiate GHD for City Engineering Services
5. Planning Commissioner Vacancy Notice

Motion (Baker/Miller) to approve 1-4, and pull 5 for question/clarification. Passed unanimously.

XI. DISCUSSION/ACTION AGENDA ITEMS

1. Discussion/Decision regarding Ethics Complaint against Councilmember Miller.

City Manager Berman explained that Trinidad resident Mike Morgan has filed an ethics complaint against Councilmember Dwight Miller. Councilmember Miller has requested that this complaint be agendized and heard by the Council.

Mr. Morgan's complaint states that Councilmember Miller acted in violation of the City Code of Ethics in his actions around the recent decision by the Council to remove Mr. Morgan from the Planning Commission. Mr. Morgan states that the Special Meeting where the Council took this action was improperly noticed, that the action taken was not consistent with the posted agenda, that Councilmember Miller knew that Mr. Morgan and some Councilmembers could not attend the meeting, and that Councilmember Miller's actions were not consistent with the City Code of Ethics.

Staff believes the meeting posting, agenda titles, and scheduling were all done in accordance with applicable laws and policies. These issues are the responsibility of City Staff and the City Attorney, not of Councilmembers, and therefore staff does not see them as providing a reasonable basis for an Ethics violation by a Councilmember Miller, even if they had been done incorrectly.

Councilmember Miller gave a brief introduction explaining the process, the complaint, and his discussions with Mr. Morgan. Speaking from the podium, Miller stated that this is not a trial, but rather a response to a complaint filed by Mr. Morgan. He claimed responsibility for the hearing in August to address Morgan's behavior, and also for sponsoring this hearing. After reading various quotes from the ethics policy, Miller stated that he serves on the Council because he cares about the community. *Miller recused himself following his comments and left the room for the remainder of the discussion.*

Mike Morgan thanked Miller for placing this item on the agenda, stated this was an opportunity to reconcile their issues, and did not want to see Berman or Miller punished for their actions. However, he called out errors in Berman's staff report and stated that had he been asked to resign prior to the removal hearing, he would have. He also noted that it was unfair that the decision was made at a last-minute meeting with only 3 Councilmembers present, and that he could not attend and defend himself. Morgan stated he did not request any action be taken tonight.

Councilmember questions:

Baker: The City Attorney advised that 4 of 5 votes were needed to sanction a member for an ethics violation, but only a simple majority was required to remove an appointed commissioner. This matter was going on for awhile and the Planning Commission business was being disrupted. There are a lot of grievance politics at our meetings that impede productivity. I appreciate what Morgan has to say, but we're taking up a lot of people's time with this.

Public comment included:

Ken Sawatzsky – Eureka Area

What's the point of this if no action is being requested?

Patti Fleschner – Trinidad

Please stop cannibalizing each other. We are all fine people. The short notice of the meeting was unfortunate. Morgan was on the Council before and he did his job very well. He was a good listener, and did his homework. Demonstrations at the Lighthouse assaulted his business. Forgiveness goes a long way, and I'm very grateful for all you do.

Kathleen Lake – Trinidad

I was a part of the initial complaint filed against Mr. Morgan regarding the taser incident. Many false comments have been made.

Alan Grau – Trinidad

All people should be treated equally.

Dorothy Cox – Trinidad

The bottom line is that Mr. Morgan lied to everyone here, and he has threatened me many times. He needs to own his behavior and accept the consequences of his actions. It is unbecoming and a distraction to the City's business. He has turned this around on Miller. Morgan violated the ethics code and the issue is over. Miller is a good man and shouldn't have to put up with this.

Adora King – Trinidad

Say goodbye to this issue. I'll be back after the election to tell you how I feel about Mr. Morgan if he gets elected.

No decision was made.

2. Public Hearing on Unmet Transit Needs.

HCAOG Executive Director Marcella Clem explained that each year HCAOG conducts a citizen participation process to assess unmet transit needs within Humboldt County. The public is invited during this hearing to express their opinion, solutions, complaints, or suggestions regarding Humboldt County's public transportation systems and/or general unmet transit needs.

Public comment included:

Sungnome Madrone – Trinidad

Trails are part of the transportation system too. McKinleyville needs its own bus system. The County service (HTA) stops in McKinleyville. They wander around town making numerous stops and delaying what could be a quick trip between cities. Also, there are not enough bike racks on the bus.

Ken Sawatzsky – Eureka Area

We should have a shuttle bus that transports people to local and regional airports.

Cheryl Kelly – Trinidad

There should be free bus service on Election Day.

City Manager Berman stated that connecting the Little River Trail system is an unmet transit need.

Comments will be forwarded to HCAOG.

3. Discussion/Decision regarding Countywide Measure O.

Humboldt County District Attorney Maggie Flemming and Fortuna Fire Chief Lon Winburn presented information regarding ballot Measure O, to continue the County sales tax add-on to maintain public safety services. Flemming explained the various programs that current Measure Z supports, including Fire Protection, Mental Health Services, 911 Emergency Response, Deteriorating roads, Volunteer Fire Departments, and City/County partnerships, etc. She also added that there's accountability and that the money stays local.

Public comment included:

Patti Fleschner – Trinidad

Roads were mentioned. How are they included? Lon Winburn explained that roads are important to public safety and the Public Works Department is always at the table.

Ken Sawatzky – Eureka Area

I wrote the opposition argument in the ballot. I prefer this be a measure that requires a 2/3 vote and sunsets in 10 years.

Motion (Miller/West) to support Measure O. Passed unanimously.

4. Discussion/Decision of Water Rates, Water Policies, and Consider Approval of Scope of Services with GHD to evaluate maximum water production rates.

City Engineer Rebecca Crow presented background information regarding the City's water system, including:

- System Overview
- 2010 Statistics (Connections, Averages, High users)
- 8 miles of distribution pipe (most of it 1978 or older)
- Rate history
- Need for rate review
- Next Steps
- Rates vs. Policy
- Water Supply Assessment
- Water Policy next steps

City Manager Berman added that the recent connection requests from CalFire and the Trinidad Rancheria have triggered policy questions that we don't have answers for, nor the framework developed to respond within. Priorities and policies should be evaluated. These 2 proposals could add demand that is the equivalent of 50-60 homes.

Rebecca Crow added that GHD could have a water supply assessment done in 2-3 months.

Public comment included:

Jim Cuthbertson – Trinidad

GHD has all the information they need for this assessment. At the last meeting, City Manager Berman told us that we may have to start rationing water. There are people that live upstream on Luffenholtz that have rights too. I'm concerned that we may give away all our water and not have enough for the people in town. **City Manager Berman** issued a correction to his statements last month, saying he misrepresented the information provided by the water flow monitors recently installed in Luffenholtz Creek as required by the city's water right permit.

Alan Grau – Trinidad

Conservationist's should be rewarded. There's not enough water to supply everyone. My morning shower is more important than a hotel at the Rancheria.

Leslie Farrar – Trinidad

I want current statistics. I'm concerned about commercial water sales. How much are we charging? Is it on the honor system? We need a complete supply analysis. I'd like to see a biological study of the creek. Water rights upstream are important. Water is gold. We can't say yes to everyone.

Sungnome Madrone – Trinidad

I know Luffenholtz Creek very well. I've worked on the creek for many years. You're using 25% of your annual water right. The constraint is how much is available to take during low-flow periods, during consecutive years. The most recent study done was during the Moss Subdivision project. In a dry year, all the water is allocated. The City needs to fix leaks, promote rainwater collection and incentivize this in the General Plan, and inter-tie the water system with Westhaven's system.

Erin Quinlan – Trinidad

Luffenholtz Creek tributaries went dry this year.

Shirley Laos – Trinidad Rancheria

Berman's comments aren't entirely factual. I look forward to clarifying many of the issues at the October 15 meeting. Be careful how you define consumption, and please use facts when discussing these issues. On December 09 I supplied the Council a document that identified over \$700,000 in infrastructure improvements that the Rancheria has contributed to the city's water system.

Mike Morgan – Trinidad

The last rate analysis was done in 2012. There should be plenty of information available from that report to help with the update.

Karl Ferguson – Trinidad

Concerned about the 60% recycled water statistic that the Rancheria claims it's hotel will reuse. That is simply not true. The Rancheria is only addressing allocation, not what is available. We can't make any decisions until the studies are complete.

Richard Clompus – Trinidad

I came from the east coast. I'm very aware of my water consumption, and I want to make sure we're managing our resources properly so it is sustainable in the future.

Richard Johnson – Trinidad

I'm concerned that storage capacity isn't being reviewed as part of this. The Coastal Commission is requiring the City to consider supplying visitor service businesses on Patrick's Point with water when connecting CalFire. We need to have clear policies that help guide the City when new connections are requested.

Tom Davies – Trinidad

We approved the CalFire project with the understanding that no other connections would be offered.

Danny Ferguson – Trinidad Area

The City of Trinidad is referenced in the hotel project EA. It's alarming that the report doesn't reference Luffenholtz Creek's available water. It's important to request that the Rancheria explain where they get their data from.

Patti Fleschner – Trinidad

I have been observing Luffenholtz Creek every day for 40 years. Storage is important. This is the lowest I've ever seen it flow.

Council comment included:

Miller: \$8,800, 3-month time frame seems reasonable. We should also be concerned with updating inflation rates since their expiring this year. Storage and collection is key. We want to support the Rancheria but we need the data and need to work together. Water is very important. We should consider adopting a water committee to help us out.

Baker: Our identity is often defined by the watersheds we live within. I'm a data person and want as much information on this as possible – especially historical data for reference.

Ladwig: I'm ready to authorize the study with a January 30 delivery date.

Rotwein: I appreciate all the input. We should research water policies, address storage, develop a capital improvement plan, and conduct a new rate analysis soon. I also agree that a community advisory group would be helpful.

*Motion (Rotwein/Miller) to authorize the City Manager to execute the scope of work with GHD to evaluate the maximum production capacity of the Water System, and amend the water budget by \$8,600 to be paid by the water fund reserve. **Passed unanimously.***

Council also agreed, by consensus, to 1) Authorize staff to review policies discussed tonight and return to the next meeting for further discussion, and 2) to request that GHD develop a scope of work for a rate analysis, capital improvement plan, and storage analysis for Council consideration at a future meeting, and 3) No applications for commercial service will be considered until all the data is received and reviewed by the Council.

5. Consider Appointments to the STR Committee.

Mayor Rotwein recused herself from this discussion due to professional relationships she has with some of the committee candidates.

City Manager Berman explained that the notice to solicit interest in serving on this committee was published with an error regarding the committee makeup. He noted that the Council amended the original proposal, which included only one STR representative, and approved (1) Planning Commissioner, (2) STR Representatives, and (2) Residents to form the Committee.

Council questions included:

Ladwig: Reminded everyone that this committee came from Baker and West's report back in early 2018 regarding STR issues.

Baker: Concerned with applicants that did not attend tonight.

Public comment included:

Leslie Farrar – Trinidad

I did not attend the September 12 meeting. The number of STR reps and residents should not be equal.

Tom Davies – Trinidad

It would not be legitimate to appoint people that are not here tonight.

Alan Grau – Trinidad

I attended the meeting in September. Due to many issues, this notice should be reposted and appointments should be delayed. The process is biased and unfair.

Council comments included:

Ladwig: I think the notice should be reposted, and specify what the Council expects to see in the applications. This is an advisory group that is expected to provide input as to how the ordinance is working. I volunteer to re-write the notice.

West: This is a discussion group that was intended to bring all the interests together and promote conversation and creative solutions – NOT a decision or policy-making group. We expect the group to review annual activity, impacts, ordinance performance, etc., and advise the Council accordingly.

Baker: I don't see the purpose of appointing someone to the committee that doesn't agree or believe in the ordinance. We should table tonight's decision, repost the notice, and ask participants to provide more information about their desire to participate and be prepared to answer questions from the Council.

Miller: Offered to work with Ladwig to re-write the notice and give to staff for posting.

No motion was made. By consensus the Council authorized Ladwig and Miller to work together and re-write the notice and have staff republish it. The STR Committee appointment will be continued to the next regular meeting.

XI. FUTURE AGENDA ITEMS

- Council participation in the Management Plan Team
- Investigate Tributary Creeks in Luffenholtz Watershed.

XIII. ADJOURNMENT: 10:15 pm

Submitted by:

Gabriel Adams
Trinidad City Clerk

Approved by:

Susan Rotwein
Mayor